

NEW



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

March 5, 1998

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Federal Express Corporation filed 2/5/98 in Docket OST-98-3436³ for:

XX Exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between any point or points in the United States directly and via intermediate points and any point or points in Japan and beyond Japan to any point or points in third countries.

Applicant rep: Nathaniel P. Breed 202-663-8078 DOT analyst: Gerald Caolo 202-366-2406

DISPOSITION

XX *Granted (subject to conditions, see below)*

The above action was effective when taken: March 5, 1998, through March 5, 2000 (or until 90 days after final Department action on Federal Express' certificate application in Docket 98-3435, whichever occurs earlier)

XX *Under assigned authority (14 CFR 385) by:*

*Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)*

XX Exemption Authority granted is consistent with the 1998 U. S.-Japan Memorandum of Consultations.¹

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

¹ On January 30, 1998, delegations of the United States and Japan signed a Memorandum of Consultations (MOC) that included attached understandings regarding the elements to be included in a Memorandum of Understanding. The delegations also agreed that the provisions of those understandings would be in effect provisionally upon signing of the MOC, pending conclusion of an interim agreement.

(See Reverse Side)

Condition: We made the authority granted subject to the following condition:

The authority granted to serve intermediate and beyond points in conjunction with Japan service is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority, and all conditions attached to that authority. Federal Express already holds route integration authority to combine all of its authorized international authority. (See Order 98-1-23)

Pleadings: Northwest filed a consolidated answer to various applications of U.S. and Japanese carriers, including Federal Express' application at issue here, Northwest raised concerns about awarding blanket authority between the United States or Japan and third countries. It did not oppose the grant of such authority, but suggested that the authority be conditioned so that it would be consistent with relevant bilateral agreements and would exclude services to limited-entry countries until the Department has completed any necessary carrier selection procedures. The authority granted here is subject to the conditions imposed on the route integration authority granted Federal Express. That route integration authority requires compliance with all applicable bilateral aviation agreements and makes clear that the route integration authority does not confer on Federal Express any new limited-entry route rights unless and until the Department has **first** completed the necessary carrier selection procedures to award such authority. Northwest's concerns, therefore, have been addressed by the condition imposed on Federal Express' authority here and in previous actions by the Department.